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SUPREME COURT, U. S.

IN THE

Supreme Court of the United States

October Term, 1964.

No. 1068

I-T-E CIRCUIT BREAKER COMPANY,
Petitioner,

v.

CITY OF PHILADELPHIA, et al.,
and
HONORABLE JOSEPH S. LORD, III, District Judge,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.

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No. .

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Petitioner,

v.

CITY OF PHILADELPHIA, ET AL.

AND

HONORABLE JOSEPH S. LORD, III, DISTRICT JUDGE,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Petitioner, I-T-E Circuit Breaker Company, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit.

OPINIONS BELOW.

There are no opinions below. The order of Chief Judge Thomas J. Clary directing the parties to show cause why 17 civil actions should not be transferred from the Eastern District of Pennsylvania to the Northern District of Illinois and the order of respondent District Judge Joseph S. Lord, III,[1] directing such transfer are printed in Appendices B and C to this petition. The order of the Court of Appeals for the Third Circuit denying I-T-E's petition for either a rule to show cause or a writ of mandamus is printed in Appendix D to this petition.

1. The other respondents are listed in Appendix A to this petition.

JURISDICTION.

The order of the Court of Appeals denying the petition for either a rule to show cause or a writ of mandamus was entered on March 26, 1965 (Appendix D). The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1). *Norwood v. Kirkpatrick,* 349 U. S. 29, 30 (1955).

QUESTIONS PRESENTED.

1. Where there is not and could not be a finding that the transfer is "for the convenience of parties and witnesses," as authorized by § 1404(a) of the Judicial Code, may a district court, on its own motion, transfer civil actions properly before it to another district, saying merely that the transfer is "in the interest of justice" and "to facilitate" the disposition of these and other civil actions brought by other plaintiffs against the same defendant in the transferee district?

2. Should not the court of appeals issue a writ of mandamus to correct the district court when it exceeds its jurisdiction, errs in interpreting the legal limitations upon and criteria for a transfer under § 1404(a) of the Judicial Code, and ignores the mandatory statutory standards by entering, upon its own motion, an order transferring civil actions properly before it to another district when there is not and could not be a finding that such transfer is "for the convenience of parties and witnesses"?

STATUTE INVOLVED.

Section 1404(a) of the Judicial Code, 28 U. S. C. § 1404(a), provides:

> "For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought."

STATEMENT OF THE CASE.

Petitioner, I-T-E, is a defendant in 17 antitrust treble-damage actions brought by 32 private and governmental utilities in the United States District Court for the Eastern District of Pennsylvania at Philadelphia pursuant to § 4 of the Clayton Act, 15 U. S. C. § 15 (29a-30a [2]). The respondents are the utilities more specifically identified in Appendix A to this petition, and District Judge Joseph S. Lord, III.

The complaints in these cases were filed after the 1959-60 federal grand jury investigation of the electrical manufacturing industry in that district, which plaintiffs expressly pleaded in their complaints (25a-26a). In these cases the plaintiffs' claims are presently limited to those based on purchases from I-T-E of electrical equipment known as power switchgear assemblies.[3]

I-T-E is a Pennsylvania corporation with its principal place of business in Philadelphia (25a). Its Switchgear Division, which manufactures and sells power switchgear assemblies, is in Philadelphia. Thus Philadelphia is the source of virtually all I-T-E's relevant documents and personnel with knowledge relevant to these actions, including those who would be witnesses at the trial. So also the City of Philadelphia, the Philadelphia Gas Works, the Philadelphia Electric Company and the United Gas Im-

2. References to "a" pages are to the appendices to the petition for either a rule to show cause or a writ of mandamus in the court of appeals.

3. Federal Pacific Electric Company, which has its principal place of business in Newark, New Jersey, is also a defendant but the plaintiffs did not purchase any power switchgear assemblies from Federal Pacific (29a-30a). Although the plaintiffs purchased power switchgear assemblies from former defendants in these cases with whom they have settled, under the terms of their settlements the plaintiffs do not claim damages from I-T-E on such purchases (61a). It appears that 22 of the plaintiffs made no purchases from I-T-E and their attorney has stated their intention to dismiss their claims. This should ultimately result in the dismissal of nine of these seventeen actions.

provement Company, whose claims involve five-sixths of the sales dollars in these actions, have all their personnel and records in Philadelphia. The remaining plaintiffs are scattered in other parts of the nation (30a, 10a-11a).

On February 9, 1965, without prior notice to the parties, the United States District Court for the Eastern District of Pennsylvania, *sua sponte*, by Chief Judge Clary, entered an order directing the parties to show cause why the 17 civil actions which are the subject of this petition should not be transferred to the United States District Court for the Northern District of Illinois (Appendix B). The rule was returnable February 19, 1965 before Judge Lord. The reasons for the transfer suggested in the rule were:

> ". . . it appearing that all of the cases in the above category in this District have been settled as against every defendant except Federal Pacific Electric Company and I-T-E Circuit Breaker Company, and it further appearing that several cases involving this category have been set for trial in the Northern District of Illinois for May 1, 1965, and that it would facilitate the national disposition of these cases to transfer them to the Northern District of Illinois to be either consolidated with the cases there set for trial or for trial immediately thereafter, and the Court having ascertained that the United States District Court for the Northern District of Illinois is agreeable to such transfer, IT IS NOW ORDERED, ADJUDGED AND DECREED that all plaintiffs and the above named defendants show cause, if any they have, why the above entitled actions should not be so transferred to the Northern District of Illinois."[4]

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4. At the time Chief Judge Clary's order was entered, there were in Chicago five cases allegedly based upon purchases of similar equipment which had been commenced there (26a) and two such cases had been ordered transferred there from Kansas City by the District Court for the Western District of Missouri (28a). A petition for

I-T-E filed a memorandum and affidavit opposing the proposed transfer (5a-24a, 25a-49a). Among other things, I-T-E urged the district court to consider the absence of witnesses in Chicago, the presence of parties, witnesses and records in Philadelphia and the difficulties and added expense which would be presented by the proposed transfer in preparation and trial not only of the Philadelphia cases but of the cases already in Chicago (10a-18a, 25a, 27a, 29a-30a).[5]

Plaintiffs filed a memorandum saying merely that they did not object to the proposed transfer (50a-51a).

After argument on February 19, Judge Lord entered an order on February 23 directing the transfer of all 17 civil actions (Appendix C). The order stated:

> ". . . it appearing that all of the cases involving power switchgear assemblies have been settled as against every defendant except Federal Pacific Electric Company and I-T-E Circuit Breaker Company, and it further appearing that several cases involving this category have been set for trial in the Northern District of Illinois for May 3, 1965, and that it would facilitate the national disposition of these cases to transfer them to the Northern District of Illinois to be either consolidated with the cases there set for trial or for trial immediately thereafter, and it further appearing, after the filing of briefs and after argument heard thereon, that it is in the interest of justice that said cases be transferred to the United States District

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writ of mandamus to vacate that order was dismissed by the Court of Appeals for the Eighth Circuit on March 29, 1965.

Since the entry of Chief Judge Clary's order, one of the cases originally commenced in Chicago has been dismissed, three cases have been transferred to Chicago by the District Court for the Southern District of Texas, and one case has been transferred to Chicago by the District Court for the Western District of Kentucky. The trial date has also been changed from May to October, 1965.

5. In the district court Federal Pacific also opposed transfer. However, it took no further steps with respect to the matter in the court of appeals.

> Court for the Northern District of Illinois, and the Court having ascertained that the United States District Court for the Northern District of Illinois is agreeable to such transfer, IT IS ORDERED that the above cases be and they hereby are transferred to the United States District Court for the Northern District of Illinois."

The district court did not purport to find that the transfers were "for the convenience of parties and witnesses", nor did it refer to the affidavit filed by I-T-E in response to the order to show cause, which indicates the inconvenience to parties and witnesses and the added expense that such a transfer would cause. There was no other evidence on this subject in the record on the order to show cause.

I-T-E moved the district court to certify its decision for interlocutory appeal under § 1292(b) of the Judicial Code (56a-58a). The motion was denied on March 16, 1965. Thereafter, on March 18, 1965, I-T-E filed with the court of appeals a petition for either a rule to show cause or a writ of mandamus.[6] On March 26, 1965 the court of appeals denied the petition without indicating its reasons for doing so (Appendix D).

On March 30, 1965 the district court entered an order staying transfer pending the filing of a petition for certiorari with this Court and action of this Court on an application to it seeking a further stay.

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6. The alternative form of the petition in the court of appeals is a result of a new procedure announced by that court in *Rapp v. Van Dusen,* No. 14927, 3d Cir., December 16, 1964, *petition for rehearing granted,* April 6, 1965.

REASONS FOR ALLOWING THE WRIT.

I. The Decision Below Presents Important Procedural Issues Affecting the Administration of Justice and the Construction and Operation of 28 U. S. C. § 1404(a) in Common Disaster, Antitrust and Other Litigation Giving Rise to Related Civil Actions in More Than One District.

Problems created by related multiple district litigation recur with increasing frequency as the activities of the country's businesses and citizens acquire a national character, no longer limited by purely local or regional considerations. There is ever-greater use of mass interstate transportation and national distribution of goods and dissemination of ideas. These and other changes in the life of the nation are reflected in the business of the courts. One aspect of such change is the frequency with which a single event or course of conduct gives rise to many lawsuits in different judicial districts presenting varying numbers of common or related issues of fact and law. An airplane crash, a train wreck, a ship collision, or an explosion may spawn many cases in several different district courts. The sale of a harmful drug by a national pharmaceutical manufacturer may result in scores of cases in more than a dozen districts. An indictment for a violation of the antitrust laws allegedly affecting sales in a national market may be the occasion for the commencement of hundreds of more or less related cases in almost every judicial district of the nation. The case at bar arises out of just such an event, and involves a small number of a great many treble-damage suits that have been brought by numerous purchasers of electrical equipment.

The district court in Philadelphia has directed the transfer to Chicago of some of the private treble-damage actions that were brought in Philadelphia by Philadelphia

plaintiffs against a Philadelphia defendant for damages allegedly sustained from the purchases in Philadelphia of equipment manufactured in Philadelphia, all of which are said by plaintiffs to have been the object of an antitrust conspiracy investigated and prosecuted in the federal court in Philadelphia.

The absence of any opinion from the district court explaining the consideration, if any, accorded by it to the factors customarily considered in measuring the "convenience of parties and witnesses", the absence of any finding in the district court's order that the transfers were "for the convenience of parties and witnesses", and the facts and circumstances of the cases themselves fairly permit, if not compel, the conclusion that the district court not only did not but could not find the transfers to be "for the convenience of parties and witnesses". Support for this conclusion is also provided by the entry of the order in 17 cases notwithstanding the widely varying geographical locations of the plaintiffs (see Appendix A), the expressed intention of plaintiffs' counsel that he would dismiss nine of the cases when he got around to it (64a-65a, 61a), and the district court's earlier express recognition of the obvious futility of transferring cases that will be dismissed.[7] From all that appears, the location of the plaintiffs was immaterial to the district court. The civil action brought by Webster City, Iowa, was dealt with no differently than the civil actions brought by the plaintiffs located in Philadelphia, which had by far the largest claims. Nor could the district court find that the convenience of the parties has been served by the transfer of all of their cases to Chicago. Even after transfer, these plaintiffs still would have pending against I-T-E in Philadelphia 37 cases based upon purchases of electrical equipment other than power

7. At the argument, the district court said, "You will get around to it but it would be rather futile to transfer these nine cases if we decide upon transfer—" (65a).

switchgear assemblies and, in addition, I-T-E still would remain as a defendant in Philadelphia in another power switchgear assembly case brought by two other plaintiffs whose case is unaffected by the orders of the courts below (11a, 18a).

The district court purports to justify its order not by a finding of convenience of parties and witnesses, which this Court declared to be the proper practice in *Continental Grain Co. v. Barge FLB-585*, 364 U. S. 19, 26 (1960), but by a bare statement that the transfer is "in the interest of justice". So far as appears from the district court's order, this conclusion is based upon an imprecise belief that some other cases brought by some other plaintiffs against the same defendant are approaching trial in some other district, upon the district court's speculation that the transfer of the Philadelphia cases somehow "would facilitate [their] national disposition", and upon the agreement of the transferee court to accept the cases.[8]

Thus this case squarely presents the issue whether, within the existing statutory authority, the convenience of the judges of the district courts in the disposition of related civil actions in different districts can be the controlling reason[9] for transferring such cases from one district court to another without regard to the convenience of parties and witnesses, or whether this novel procedural device may be

8. The order directing transfer is almost identical with the order to show cause entered by Chief Judge Clary and does not reflect any consideration of the affidavit, memorandum and argument in opposition to transfer presented to the district court. By the procedure adopted in this case, a rule to show cause on the court's own motion, the burden of showing that "the convenience of parties and witnesses" would be served by the transfer, which is normally that of the party seeking it, becomes instead a presumption of fact which the parties must overturn in order to avoid having a transfer thrust upon them.

At the argument, Judge Lord said Chief Judge Clary had spoken with District Judge Edwin A. Robson, of the Northern District of Illinois, about his willingness to accept the cases (62a).

9. Contrary to existing authority, *Keller-Dorian Color-Film Corp. v. Eastman Kodak Co.*, 88 F. Supp. 863, 866-7 (S. D. N. Y. 1949), *Mazinski v. Dight*, 99 F. Supp. 192, 194 (W. D. Pa. 1951).

employed only for the purposes stated in the statute which created it, "the convenience of parties and witnesses, in the interest of justice".

Section 1404(a) authorizes the transfer of a civil action to another district where it might have been brought only "for the convenience of parties and witnesses, in the interest of justice", and without that authority such a transfer could not be made.[10]

The Reviser's Note, which this Court has repeatedly adopted as "obviously authoritative in perceiving the meaning" of this section of the Judicial Code,[11] makes plain the reason for the section and the standards to be applied under it:

> "*Subsection (a) was drafted in accordance with the doctrine of forum non conveniens, permitting transfer to a more convenient forum, even though the venue is proper.* As an example of the need of such a provision, see Baltimore & Ohio R. Co. v. Kepner, 1941, 62 S. Ct. 6, 314 U. S. 44, 86 L. Ed. 28, which was prosecuted under the Federal Employer's Liability Act in New York, although the accident occurred and the employee resided in Ohio. *The new subsection requires*

10. The limiting character of the standard of "convenience of parties and witnesses" is emphasized by the fact that Congress and this Court have omitted it from statutes and rules which invest the district court with broader powers to transfer cases in other specific situations. For example: 28 U. S. C. § 1406(a) authorizes transfer "in the interest of justice" of a civil action brought in the wrong district; 46 U. S. C. § 742 authorizes transfer of certain suits in admiralty against the United States "in the discretion of the court"; and Federal Rule of Criminal Procedure 21(b) authorizes transfer of some criminal cases, upon motion of the defendant, "in the interest of justice". Moreover, the Co-ordinating Committee for Multiple Litigation, which includes Chief Judge Clary (E. D. Pa.) and District Judge Robson (N. D. Ill.), is presently seeking an amendment to § 1404 specifically to permit the centralization of multiple district civil litigation for at least pretrial purposes.

11. *United States v. National City Lines*, 337 U. S. 78, 81, 82 (1949); *Ex parte Collett*, 337 U. S. 55, 68-71 (1949); *Van Dusen v. Barrack*, 376 U. S. 612, 634-5, n. 30 (1964).

> *the court to determine that the transfer is necessary for convenience of the parties and witnesses, and further, that it is in the interest of justice to do so.*" (Emphasis supplied.)

The doctrine of *forum non conveniens,* in accordance which which § 1404(a) was drafted, took into account not only public interests, such as the imposition of jury duty "upon the people of a community which has no relation to the litigation", but the private interest of the litigant, which this Court recognized as "the one likely to be most pressed". Among the "important considerations" were "the relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; possibility of view of premises, if view would be appropriate to the action; and all other practical problems that make trial of a case easy, expeditious and inexpensive." *Gulf Oil Corp. v. Gilbert,* 330 U. S. 501, 508-9 (1947).

The decisions by this Court since the adoption of § 1404(a) hold "the convenience of parties and witnesses" to be the indispensable condition of transfer, just as such considerations were the heart of the doctrine of *forum non conveniens.* Thus in *Norwood v. Kirkpatrick,* 349 U. S. 29, 32 (1955), this Court held that the adoption of § 1404(a) did not change the applicable criteria and still made inconvenience of the parties in the district where suit was brought the basic reason for a transfer to a district which was more convenient for them and the witnesses:

> ". . . we believe that Congress, by the term 'for the convenience of parties and witnesses, in the interest of justice,' intended to permit courts to grant transfers upon a lesser showing of inconvenience. This is not to say that the relevant factors have changed or that the plaintiff's choice of forum is not to be considered, but only that the discretion to be exercised is broader."

See also *Continental Grain Co. v. Barge FBL-585*, 364 U. S. 19, 21 (1960), where "the interest of justice" is equated with "unnecessary inconvenience and expense to parties, witnesses, and the public."

From the statutory language itself, as amplified by the Reviser's Note and the decisions of this Court, it has heretofore been essential to any transfer under § 1404(a) that there be a finding by the district court that the transfer is necessary "for the convenience of parties and witnesses". Only thereafter does the district court have to make the additional finding that the proposed transfer is also "in the interest of justice".[12]

The decisions of the courts below unsettle the law under § 1404(a) applicable to the transfer of related cases pending in several districts. In such cases, under the theory of the courts below, the express and well-defined statutory standard of "convenience of parties and witnesses", if it remains at all, is to be subordinated to the more general test of "the interest of justice", which may be met without regard, or even contrary, to the convenience of parties and witnesses. Such a far-reaching procedural change, susceptible of non-uniform application not only to future cases but to hundreds of cases now pending, should be considered by this Court before the practice promulgated by the decisions of the courts below spreads throughout the judicial system in a haphazard fashion, conflicting with the principles heretofore approved by this Court. This is, indeed, a case in which the decision below "has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a course by a lower court, as to call for an exercise of this court's power of supervision". Supreme Court Rule 19(1)(b).

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12. Thus, although "the interest of justice" was separately discussed in *Van Dusen v. Barrack*, 376 U. S. 612 (1964), it was considered as a further limitation upon a transfer to a forum otherwise more convenient for parties and witnesses.

II. The Decision Below Conflicts With Decisions of This Court.

The transfer of these civil actions without a finding that such transfer was "for the convenience of parties and witnesses", and, indeed, contrary to that convenience, conflicts with the decisions of this Court. See, e.g., *Ex parte Collett*, 337 U. S. 55 (1949); *United States v. National City Lines*, 337 U. S. 78 (1949); *Norwood v. Kirkpatrick*, 349 U. S. 29 (1955).

III. The Decision of the Court of Appeals Refusing to Issue the Writ of Mandamus Conflicts With Decisions of This Court.

When the district court exceeds its statutory authority and jurisdiction by directing the transfer of civil actions properly before it in circumstances which do not permit a finding that such transfers are "for the convenience of parties and witnesses" as § 1404(a) requires, and then denies a certificate permitting an interlocutory appeal under § 1292(b) of the Judicial Code, the litigants are deprived of any effective remedy for the district court's action, no matter how arbitrary or illegal it may be, unless a writ of mandamus is issued by an appellate court. The litigant is summarily denied its rights and privileges under the statutes prescribing venue with the concomitant frustration of the important public policies so expressed by Congress. This is particularly so where there is the publicly announced, advance agreement of the transferee court to accept the cases, which diminishes the likelihood of, or even precludes, a free and fresh reconsideration of the matter after transfer. Compare *Hoffman v. Blaski*, 363 U. S. 335 (1960).

The refusal of the court of appeals to issue the writ of mandamus conflicts with the decisions of this Court that mandamus is the proper remedy to correct errors in the

interpretation of the legal limitations upon and the criteria for a transfer under § 1404(a), *Van Dusen v. Barrack*, 376 U. S. 612, 615, n. 3 (1964), and to confine an inferior court to a lawful exercise of its authority, *Platt v. Minnesota Mining Co.*, 376 U. S. 240, 245 (1964).

CONCLUSION.

The impact of this decision upon the conduct of the business of the district courts in applying § 1404(a) to related, multiple district litigation is substantial. If transfers may be made in such cases in disregard of the "convenience of parties and witnesses" and contrary to the clear and unambiguous language of the statute, this Court should so state lest there be confusion and non-uniform employment of this important procedural device, particularly since the decision below conflicts with the plain words of the statute and unsettles the law as heretofore announced by this Court.

Respectfully submitted,

PHILIP PRICE,
RAYMOND W. MIDGETT, JR.,
RICHARD G. SCHNEIDER,
Attorneys for Petitioner I-T-E Circuit Breaker Company.

April 15, 1965.

APPENDIX A.

List of Respondents.

City of Philadelphia
City of Philadelphia as owner and
The United Gas Improvement Company
as manager of the property known
as The Philadelphia Gas Works
Philadelphia Electric Company
Harvey's Lake Light Company
The United Gas Improvement Company
City of Willmar, Minnesota
Western Farmers Electric Cooperative
Moon Lake Electric Association, Inc.
Blue Ridge Electric Membership Corp.
Yampa Valley Electric Association, Inc.
Menard Electric Cooperative
Jones-Onslow Electric Membership Corp.
Washington Electric Cooperative, Inc.
Corn Belt Power Cooperative
Randolph Electric Membership Corp.
Wake Electric Cooperative
City of Spencer, Iowa
Trustees of Spencer Municipal Utilities
Webster City, Iowa
The City of Greenwood, Mississippi
Greenwood Utilities Commission
City of Lansing, Michigan
City of Holland, Michigan

City of Detroit, Michigan
The City of Orlando, Florida
Orlando Utilities Commission
City of Pittsburgh
City of Clarksdale, Mississippi
City of Fort Pierce, Florida
City of Rochester, Minnesota
Bihar State Electricity Board
Damodar Valley Corporation

APPENDIX B.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

CITY OF PHILADELPHIA, et al.	CIVIL ACTION NOS.	
	29810	30890
v.	29817	30907
	30017	30913
FEDERAL PACIFIC ELECTRIC COMPANY	30821	30936
	30829	30950
and	30851	30955
	30868	30958
I-T-E CIRCUIT BREAKER COMPANY,	30878	30968
Defendants.	30885	

(POWER SWITCHGEAR ASSEMBLY CASES)

ORDER TO SHOW CAUSE.

AND NOW, to wit, this 9th day of February, 1965, it appearing that all of the cases in the above category in this District have been settled as against every defendant except Federal Pacific Electric Company and I-T-E Circuit Breaker Company, and it further appearing that several cases involving this category have been set for trial in the Northern District of Illinois for May 1, 1965, and that it would facilitate the national disposition of these cases to transfer them to the Northern District of Illinois to be either consolidated with the cases there set for trial or for trial immediately thereafter, and the Court having ascertained that the United States District Court for the Northern District of Illinois is agreeable to such transfer,

IT IS NOW ORDERED, ADJUDGED AND DECREED that all plaintiffs and the above named defendants show cause, if any they have, why the above entitled actions should not be so transferred to the Northern District of Illinois.

Rule returnable on Friday, February 19, 1965, at 11 A. M., before the Honorable Joseph S. Lord, III, Judge of this Court.

Plaintiffs' and defendants' replies and briefs in support of their positions shall be filed with the Clerk of the Court not later than 4:30 P. M., Wednesday, February 17, 1965, and copies thereof concurrently filed with Judge Lord.

By THE COURT:

/s/ THOMAS J. CLARY,
Ch. J.

APPENDIX C.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

	CIVIL ACTION NOS.	
CITY OF PHILADELPHIA, et al.	29810	30890
v.	29817	30907
	30017	30913
FEDERAL PACIFIC ELECTRIC COMPANY	30821	30936
	30829	30950
and	30851	30955
	30868	30958
I-T-E CIRCUIT BREAKER COMPANY,	30878	30968
Defendants.	30885	

ORDER.

AND NOW, to wit, this 23rd day of February, 1965, it appearing that all of the cases involving power switch gear assemblies have been settled as against every defendant except Federal Pacific Electric Company and I-T-E Circuit Breaker Company, and it further appearing that several cases involving this category have been set for trial in the Northern District of Illinois for May 3, 1965, and that it would facilitate the national disposition of these cases to transfer them to the Northern District of Illinois to be either consolidated with the cases there set for trial or for trial immediately thereafter, and it further appearing, after the filing of briefs and after argument heard thereon, that it is in the interest of justice that said cases be transferred to the United States District Court for the Northern District of Illinois, and the Court having ascertained that the United States District Court for the North-

ern District of Illinois is agreeable to such transfer, IT IS ORDERED that the above cases be and they hereby are transferred to the United States District Court for the Northern District of Illinois.

By THE COURT

/s/ JOSEPH S. LORD, III,
J.

APPENDIX D.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT.

No. 15,300.

I-T-E CIRCUIT BREAKER COMPANY,
Petitioner,

v.

CITY OF PHILADELPHIA, CITY OF PHILADELPHIA AS OWNER AND THE UNITED GAS IMPROVEMENT COMPANY AS MANAGER OF THE PROPERTY KNOWN AS THE PHILADELPHIA GAS WORKS, PHILADELPHIA ELECTRIC COMPANY, THE UNITED GAS IMPROVEMENT COMPANY, ET AL.,
Respondents,

AND

HONORABLE JOSEPH S. LORD, III, DISTRICT JUDGE,
Respondent.

Present: MCLAUGHLIN, HASTIE and SMITH, *Circuit Judges.*

On Petition, &c.

ORDER.

After full consideration of the petition for either a rule to show cause or writ of mandamus and the answer thereto, the said petition is denied.

By THE COURT,

MCLAUGHLIN,
Circuit Judge.

Dated: March 26, 1965.